

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

DOUGLAS WILLIAM MAHALA,
Petitioner.

No. 2 CA-CR 2015-0125-PR
Filed May 13, 2015

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.

Petition for Review from the Superior Court in Yavapai County

No. P1300CR201001226

The Honorable Tina R. Ainley, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Sheila Sullivan Polk, Yavapai County Attorney
By Stephen J. Sisneros, Deputy County Attorney, Prescott
Counsel for Respondent

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Douglas W. Mahala, Florence
In Propria Persona

MEMORANDUM DECISION

Presiding Judge Miller authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Espinosa concurred.

M I L L E R, Presiding Judge:

¶1 Douglas Mahala seeks review of the trial court's orders summarily denying his petition for post-conviction relief and motion for rehearing filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that ruling unless the court clearly abused its discretion. *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Mahala has not met his burden of demonstrating such abuse here.

¶2 After a jury trial, Mahala was convicted of two counts each of aggravated domestic violence and aggravated harassment. He was sentenced to concurrent prison terms, the longest of which were six years. Those sentences were ordered to run consecutive to one-year prison terms imposed as a result of Mahala's probation having been revoked due to his offenses. We affirmed his convictions and sentences on appeal. *State v. Mahala*, No. 1 CA-CR 11-0400 (memorandum decision filed June 12, 2012).

¶3 Mahala sought post-conviction relief, and appointed counsel filed a petition raising various claims of ineffective assistance of trial and appellate counsel, in addition to claims that his convictions violated the prohibition against double jeopardy and that consecutive sentences were improper. After the trial court summarily denied that petition, Mahala filed a pro se motion for rehearing in which he argued: (1) trial counsel had been ineffective in failing to enforce a stipulation that his probation status would not apply to his sentences; (2) trial and appellate counsel were

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ineffective in failing to “bring[] up the fact that [a] state’s witness committed perjury” and in failing to present “dispatcher log books” that would support his alibi defense; (3) the trial court erred by denying his motion for a judgment of acquittal; (4) Rule 32 counsel had been ineffective in failing to raise the above claims; and (5) a police officer had lied to the grand jury, resulting in an improper indictment. The trial court denied the motion for rehearing without comment, and this petition for review followed.

¶4 On review, Mahala repeats the claims raised in his motion for rehearing and further argues the trial court erred in failing to “mandate[]” that the jury view a video recording purportedly supporting his alibi defense. Mahala apparently has abandoned the claims raised in his petition for post-conviction relief. We do not address claims raised for the first time on review. *State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980); *see also* Ariz. R. Crim. P. 32.9(c)(1)(ii). And the trial court was not required to address the claims Mahala raised for the first time in a motion for rehearing. *See* Ariz. R. Crim. P. 32.9(a); *State v. Bonnell*, 171 Ariz. 435, 438 n.3, 831 P.2d 434, 437 n.3 (App. 1992). Thus, the court did not err in summarily denying that motion.

¶5 Although we grant review, we deny relief.